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October 20, 2023

**FILED BY ECF**

Honorable Valerie Figueredo  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *Johnson v. The Westin NY at Times Square*, Case No.: 1:23-cv-01156-AS-VF

Dear Magistrate Judge Figueredo:

This firm represents defendant Starwood Hotels & Resorts Worldwide, LLC incorrectly named herein as The Westin New York at Times Square ("Defendant") in the referenced action.

The purpose of this letter is to advise the Court as to certain procedural issues in this matter, to request a stay of discovery as further described below and to raise an issue with respect to one of Plaintiff's recent filings.

On October 5, 2023, Defendant received the Court's initial case management conference order ("Order").<sup>1</sup> That same day, I emailed the Order and the Federal Rules of Civil Procedure ("FRCP") to Mr. Johnson and requested a conference call on or before Wednesday October 11 ("October 5 Email"). On Monday, October 9, I mailed a letter to Mr. Johnson again requesting a call ("October 9 Letter") and attaching the October 5 Email, the Order and the FRCP. The October 9 Letter was delivered to Mr. Johnson by FedEx overnight on Tuesday, October 10 at 11:03 am. As of today's date, I have received no response from Mr. Johnson, and as a result, we have not conducted a Rule 26(f) conference. Given Mr. Johnson's refusal to respond to Defendant's attempts to schedule a call, and since Defendant has a pending motion to dismiss Plaintiff's claims in their entirety based on a lack of subject matter jurisdiction and a failure to state a claim, Defendant requests that discovery be stayed (including Rule 26(a) initial disclosures) until the Court issues a decision on Defendant's motion.

Additionally, on October 10, 2023, Plaintiff filed a document entitled "Motion: for Summary Judgment" (see ECF Docket 39). Defendant's requests clarity on whether the Court deems it necessary for Defendant to submit written opposition to this filing. The filing is not a summary judgment motion in substance and as noted above, discovery has not started, let alone been completed. As such, any summary judgment motion would be premature. However, if the Court requires written opposition to Plaintiff's filing, Defendant requests it be given until December 15, 2023 to submit its opposition.

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<sup>1</sup> We note that the Order appears to differ from Your Honor's Individual Rules with respect to Case Management Plans in *pro se* actions.

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BRYAN  
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Thank you for your consideration.

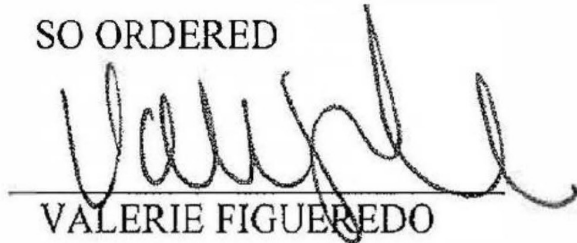
Respectfully,



Laurie Belony

cc: Joseph J. Johnson (via first class mail)  
151 Country Club Lane, Pomona, New York 10970

SO ORDERED



VALERIE FIGUEROA

United States Magistrate Judge

Dated: October 23, 2023

The motion for summary judgment filed by Plaintiff on October 8, 2023 is premature. There is a pending motion to dismiss filed by Defendant before the Court that must be ruled on first. Moreover, the October 8 submission by Plaintiff, although labeled as a summary judgment motion, is not a summary judgment motion in substance. Plaintiff appears to be raising allegations concerning violations of criminal law and Plaintiff is again reminded that this is a civil proceeding and therefore Plaintiff's allegations concerning criminal offenses are not properly raised here. In light of the pending motion to dismiss and Plaintiff's apparent failure to engage in a Rule 26(f) conference with Defendant, discovery in this matter is stayed until the Court rules on the motion to dismiss. The Clerk of Court is respectfully directed to terminate the letter motions at ECF Nos. 39 and 41.

**AFFIDAVIT OF SERVICE  
VIA  
UNITED STATES POSTAL SERVICES (USPS)**

STATE OF NEW YORK     )  
                                      : ss.:  
COUNTY OF NEW YORK    )

**HARVEY BRISCO**, being duly sworn, deposes and says:

1. I am not a party to the within action. I am over 18 years of age and reside in Staten Island, New York.

2. That on Friday, October 20, 2023, I mailed a copy of a letter dated October 20, 2023 to the Honorable Valerie Figueredo, United States District Court. Southern District of New York. 500 Pearl Street, New York, New York 10007 captioned: *Johnson v. The Westin NY at Times Square*, Case No.: 1:23-cv-01156-AS-VF to the following party:

Joseph J. Johnson  
151 Country Club Lane  
Pomona, New York 10970

by depositing true copies of same enclosed in a first class postpaid properly addressed wrapper, in a post office or an official depository under the exclusive care and custody of the United States Postal Service within New York State.



**HARVEY BRISCO**

Sworn to before me this 20  
day of October, 2023

  
Notary Public

**HOLLY F. BERGER**  
Notary Public, State of New York  
No. 01BE5025860  
Qualified in New York County  
Commission Expires April 4, 2026